

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL S. SMITH,	:	Civil No. 1:23-CV-01407
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
CARLA RODGERS, M.D., <i>et al.</i> ,	:	
	:	
Defendants.	:	Judge Jennifer P. Wilson

ORDER

Before the court is the report and recommendation of United States Magistrate Judge Martin Carlson recommending that the court deny Plaintiff’s motion to proceed *in forma pauperis*, dismiss Plaintiff’s complaint without prejudice until he can pay the filing fee, and dismiss Plaintiff’s motion to stay because it is a response to the court’s show cause order. (Doc. 23.) Judge Carlson explains that “all the statutory prerequisites for imposition of [28 U.S.C.] § 1915(g)’s bar against further *in forma pauperis* litigation by this *pro se* prisoner-plaintiff are fully met.” (*Id.*) No party has filed objections to the report and recommendation, resulting in the forfeiture of de novo review by this court. *Nara v. Frank*, 488 F.3d 187, 194 (3d Cir. 2007) (citing *Henderson v. Carlson*, 812 F.2d 874, 878–79 (3d Cir. 1987)).¹

¹ The court notes that Plaintiff filed a Financial Affidavit on February 14, 2024, stating that he does not “have, or possess any gold or silver coin, as prescribed by the United States Constitution Law, which is the lawful money to pay the restricting demands, conditionally [sic]

Following an independent review of the report and record, and affording “reasoned consideration” to the uncontested portions of the report, *EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (quoting *Henderson*, 812 F.2d at 879), to “satisfy [the court] that there is no clear error on the face of the record,” Fed. R. Civ. P. 72(b), advisory committee notes, the court finds that Judge Carlson’s analysis is well-reasoned and fully supported by the record and applicable law. Accordingly, **IT IS ORDERED THAT:**

- 1) The report and recommendation, Doc. 23, is **ADOPTED** in part and **MODIFIED** in part. Specifically, the court modifies the recommendation regarding dismissing the complaint at this time.
- 2) The motion for leave to proceed *in forma pauperis*, Doc. 2, is **DENIED** for the reasons stated in the report and recommendation.
- 3) The motion to stay, Doc. 22, is **DENIED**.
- 4) The court will not dismiss the amended complaint at this time. Plaintiff has until **April 13, 2024** to pay the filing fees required by this court in order for the amended complaint to be filed. Should Plaintiff fail to pay these fees, his complaint will be dismissed for failure to pay filing fees, and this case will be closed.

s/Jennifer P. Wilson
JENNIFER P. WILSON
United States District Judge
Middle District of Pennsylvania

Dated: March 13, 2024

commanded by employees and contractors of the court.” (Doc. 24, p. 2.) This is not an objection to the report and recommendation.